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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,156	11/06/2000	Vivian A. Schramm		8663
52966	7590	09/21/2007	EXAMINER	
MICHAEL R. SCHRAMM			WEINSTEIN, STEVEN L	
350 WEST 2000 SOUTH			ART UNIT	PAPER NUMBER
PERRY, UT 84302			1761	
MAIL DATE		DELIVERY MODE		
09/21/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/707,156

Filing Date: November 06, 2000

Appellant(s): SCHRAMM ET AL.

MAILED  
SEP 21 2007  
GROUP 1700

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 3/3/07 appealing from the Office action  
mailed 5/24/06.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

**WITHDRAWN REJECTIONS**

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

The Ground of Rejection, listed in the Brief as Ground 5, is withdrawn by the examiner, since the ground of rejection is a duplicate of ground 1 and 2, and thus appears to have been a left over typographical error present in the Final Rejection.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

3,840,678	PRICE	10-1974
PRODUCT ALERT		3/23/1998, v28, n6 (FULL TEXT)
1,428,356	HUNTER	(G. Britain) 3-1976
4,714,174	WILLIAMS	12-1987
5,246,046	SCHRAMM	9-1993
5,758,797	MARTINDALE	6-1998
4,869,390	KENNEDY	9-1989
1,485,581	BEUTLICH ET AL	(G. Britain) 9-1977
1,254,714	McCombs	1-1918
3,464,599	METH	9-1969
5,105,975	PATTERSON	4-1992
2,673,917	CORTEGGIANI ET AL	(France) 9-1992
11-227388	PILOT INK	(Japan) 8-1999
3,781,164	McCaffery	12-1973
PRODUCT ALERT		8/9/1999, v29, n15, part 1 (FULL TEXT)
PRODUCT ALERT		8/9/1999, v29, n15, part 2 (FULL TEXT)
WO 00/19803	BAKER	4-2000
5,370,884	COLEMAN	12-1994

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5,993,870            HOETING ET AL    11-1999

5,246,046            SCHRAMM            9-1993

RE36131            SCHRAMM            3-1999

**CandyWarehouse [www.candywarehouse.com/sourpunpop24.html](http://www.candywarehouse.com/sourpunpop24.html)**

**Reference labeled Exhibit A, photo labeled Felix Powder pop, no date**

**Reference labeled Exhibit B, photo labeled Felix Sour punker pop, no date**

**Reference labeled Exhibit D, photo labeled Felix sour punker pop,**

**[www.mexicool.com/weblucas/factory/punker.htm](http://www.mexicool.com/weblucas/factory/punker.htm), 3/27/03**

**Reference labeled Exhibit F, photocopy of Lucas/Felix billing for**

**punkerpops, 10/29/99**

**Reference labeled Exhibit G, photo labeled Lucas muecas, no date**

**English translations of both CORTEGGIANI and PILOT INK have been made of record. It is noted that both references are still being employed as they were in the Final Rejection to further evidence the conventionality of providing containers with a funnel to prevent the spillage of flowable material.**

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

It is first noted that all of the rejections set forth in the Final Rejection mailed 5/24/06 are based on the fact that this currently appealed application has an effective filing date of 11/6/00. That is, the claims of the present application do not find support in

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any of appellants' previously filed applications, which are cited on page 2 of this pending application. This is because all of the claims in this application recite edible products, whereas none of the previously filed applications, disclosed on page 2 of this application, disclose edible products. Accordingly, Patent No. 5,246,046, patented 9/21/93, by one of the current appellants, is available prior art against the appealed claims.

Claims 1-14 are rejected under 35 U.S.C. 112 first paragraph for containing New Matter. As disclosed in the specification, as originally filed, appellant's sole disclosure of the candy material in the container is either the lollipop or a solid particulate material, which is defined in the specification as a "free flowing edible particulate matter, such as flavored candy powder, candy beads or any other particulate type edible material" (page 6, para. 1). Since the specification only discloses solid particulates, the phrase in claim 1, "edible flowable candy substance", is seen to be New Matter since it is readable on liquids, which phrase is not originally presented, and is set apart from the other phrase in claim 1, "edible particulate candy substance", thus implying flowable substances other than edible particulates.

Claims 1-14 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price (3,840,678), as further evidenced by Hunter (GB ('356), Williams ('174) Schramm ('046), Martindale ('797), Kennedy ('390), Beutlich et al (GB '581), McCombs ('714), Meth ('599), Patterson ('975), Corteggiani et al (FR'917), Pilot Ink (JP'388), and McCaffery ('164), in view of Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99, part 1), Product Alert (8/9/99, part 2), Candy

Warehouse (3/27/03), the references labeled exhibits A,B,D,F and G, Baker (WO 00/19803), Coleman ('884), and Hoeting et al ('870).

Claims 1-14 and 21-25 are also rejected using Product Alert (3/23/98) as the primary reference. That is, claims 1-14 and 21-35 are rejected under 35USC103(a) as being unpatentable over Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99, part 1), Product Alert (8/9/99, part 2), Candy Warehouse (3/27/03), the references labeled exhibits A,B,D,F and G, Baker (WO 00/19803), Coleman ('884), and Hoeting et al ('870), in view of Price (3,840,678), as further evidenced by Hunter (GB ('356), Williams ('174) Schramm ('046), Martindale ('797), Kennedy ('390), Beutlich et al (GB '581), McCombs ('714), Meth ('599), Patterson ('975), Corteggiani et al (FR'917), Pilot Ink (JP'388), and McCaffery ('164).

In regard to the first rejection, employing Price as the primary reference, in regard to claim 1, Price discloses it was conventional to provide a container (10) for inhibiting the spillage of edible contents (20) of said container wherein the container defines an inner cavity and a funnel (14) extending into said inner cavity to provide communication between said cavity and the exterior of said container, and wherein said container removably contains a flowable, food substance. Price discloses that the function of the funnel is to prevent spillage of the flowable food substance if the container is tilted, while at the same time allowing a second edible, solid product (22) access to the flowable food substance in the container, so that some of the flowable food substance can be associated with the second edible solid product which is removably insertable through the funnel. This is precisely appellants' problem and

solution; that is, employing a funnel to prevent the spillage of the contents therein, yet allowing a product or an article access to the contents. Hunter, Williams, Schramm, Martindale, Kennedy, Beutlich et al, McCombs, Meth, Patterson, Corteggiani, Pilot Ink and McCaffery are all relied on as further evidence that the art is replete with evidence that it was notoriously old in the art to provide a container with a funnel to solve the problem of preventing spillage from the container of either liquids or solids, and either edibles or inedibles, that are contained within the container. Note in this regard that the Court has noted in *In re Gorman* (18USPQ2d,1888), that "where teachings relied upon to show obviousness were repeated in a number of references, the conclusion of obviousness was strengthened". Note, for example, not only does Price teach a food in a funnel containing container to prevent spilling of the food, but so does Williams. Claim 1 differs from Price, in view of the art taken as a whole, in the particular contents of the container. Claim 1 recites some type of flowable candy. As noted above, the preponderance of the evidence, taken as a whole, fairly teaches that a funnel associated with a container can prevent the spillage of any flowable product capable of spilling out of a container, whether it is a solid or liquid, or edible or inedible. Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99, parts 1 and 2), Baker, Coleman and Hoeting et al, all teach that not it was conventional to provide a container with flowable candy. Therefore, appellants are obviously not the first to provide a container with flowable candy, but like any other flowable material, the flowable candy would inherently (based on the law of gravity) be subject to spilling. See, in this regard, CandyWarehouse and Hoeting et al. Note that, although the picture is admittedly of

poor quality, there is no question that CandyWarehouse shows a container containing a flowable candy powder that is lying on its side with the powder emanating therefrom and a separate cover with a hard candy attached to the cover as described in Product Alert (3/23/98). That is, Product Alert describes a container that has a powder candy in the container, a closure that seals the container, and both a handle on one side of the closure and a hard candy lolli on the other side of the closure which extends down into the container when the lid is in place on the container, so that the lolli picks up some of the candy powder and when the lid is removed from the container, the candy powder coated lolli can be licked. This product, a candy powder in a container with a lid with an attached lolli, sold by Lucas World since at least as early as 3/23/98, has been sold unchanged, except for different label names, since then, and is the product disclosed in Product Alert (3/23/98) and Product Alert (8/9/99), parts 1 and 2, as well as CandyWarehouse and the references labeled exhibits A,B,D,F and G. Although CandyWarehouse and the exhibits either have no date or have a date later than appellants' effective filing date (except for Exhibit F which has a billing date of 10/29/99), they are only being used to put a face, if you will, on the description of the product described in Product Alert (3/23/98). Should the Board choose not to consider CandyWarehouse and the references labeled exhibits A,B,D,F and G as further evidence of the product described in Product Alert (3/23/98), the rejection is still proper, and will rely on the applied references, Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99), parts 1 and 2, to teach that the recited structure of a candy powder in a container with an associated lid with attached lolli, was prior art,

conventional structure. To therefore modify Price in view of the art taken as a whole and substitute one conventional spillable, material for another conventional spillable, material, and one that is edible as well, is seen to have been obvious in view of the art taken as a whole. In regard to claim 3, as evidenced by the art taken as a whole, the funnel would inherently inhibit spillage when the container is oriented in any position. In regard to claim 4, the claim differs from Price in the recitation of a lollipop within the container. It is noted, in this regard, that appellants are not the first to associate a second dippable edible with a first edible that is contained within a funnel containing container as evidenced by Price. However, appellants are also not the first to associate a lollipop with a flowable candy in a container as evidenced by Product Alert (3/23/98) and the further evidentiary material. Product Alert (3/23/98) discloses a container containing a candy powder and a cap for the container, wherein the cap has a handle to which a lollipop is attached. The user pulls off the cap by its handle, licks the lollipop, and puts the lollipop attached to the cap, back in the container. To modify the combination and add the appropriate second edible that is compatible with the first edible (in this case, a lollipop with a flowable candy) for its art recognized and applicants intended function of providing a container that does not spill the contents but allows access by the second edible to the container contents would therefore have been obvious. In regard to claim 5, Product Alert (3/23/98), as further evidenced by the evidentiary material, teaches the association of a lollipop to a holder that is sealingly engagable with the container is well established in the art(e.g."resealabe containers")

and to modify the combination and provide the container with an engagable holder for its art recognized and applicants intended function would therefore have been obvious.

Claims 8-14 and 21-25 are rejected for the reasons given above.

In regard to the rejection employing Product Alert (3/23/98) as the primary reference, Product Alert (3/28/98), as further evidenced by the evidentiary material, teaches it is conventional in the art to provide a flowable candy in a container and that inherently a flowable material is, of course, subject to spillage from the container, due to gravity. Claim 1 differs from the combination in the provision of a funnel to inhibit spilling. As evidenced by Price and the other secondary art, discussed above, it was notoriously conventional in the art to provide funnels for containers of all types - holding all types of flowable materials, both solids and liquids, both edible and inedible - so that the funnels prevent spillage of the flowable contents. To modify Product Alert (3/23/98) and provide a funnel for its art recognized and applicants intended function, for a product inherently known to be spillable, would have been unequivocally obvious.

Claims 1-14 and 21-25 are rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 5,246,046 and claims 1-11 of RE 36131, in view of Price (3,840,678), as further evidenced by Hunter (GB ('356), Williams ('174) Schramm ('046), Martindale ('797), Kennedy ('390), Beutlich et al (GB '581), McCombs ('714), Meth ('599), Patterson ('975), Corteggiani et al (FR'917), Pilot Ink (JP'388), and McCaffery ('164), in view of Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99, part 1), Product Alert (8/9/99, part 2), Candy Warehouse (3/27/03), the various references labeled

exhibits A,B,D,F and G, Baker (WO 00/19803), Coleman ('884), and Hoeting et al ('870).

Claims 1-14 and 21-25 of the present application differ from the claims of 5,246,046 and Re 36,131 in the recitation that the funnel containing container holds a flowable candy. For the reasons fully and clearly detailed above, it would have been obvious in view of the art taken as a whole to modify the funnel containing containers of 5,246,046 and RE36,131 and employ flowable candy and a lollipop associated with a holder.

Claims 1-14 and 21-25 are rejected under the judicially created doctrine of obviousness double patenting as being unpatentable over claims 1-29 of U.S. Patent No.6,386,138 in view of Price (3,840,678), as further evidenced by Hunter (GB ('356), Williams ('174) Schramm ('046), Martindale ('797), Kennedy ('390), Beutlich et al (GB '581), McCombs ('714), Meth ('599), Patterson ('975), Corteggiani et al (FR'917), Pilot Ink (JP'388), and McCaffery ('164), in view of Product Alert (3/23/98), as further evidenced by Product Alert (8/9/99, part 1), Product Alert (8/9/99, part 2), Candy Warehouse (3/27/03), the various references labeled exhibits A,B,D,F and G, Baker (WO 00/19803), Coleman ('884), and Hoeting et al ('870).

For the reasons fully and clearly detailed above, it would have been obvious in view of the art taken as a whole to modify the funnel containing container claims of 6,386,138 and substitute one conventional content and container inserting element for another conventional content and inserting element (i.e. the particulate candy powder

and lollipop for the dye and brush), wherein the container contents are subject to spilling.

**(10) Response to Argument**

All of appellants' remarks filed 3/3/07 have been fully and carefully considered but are not found to be convincing

As was noted previously in the prosecution, with the addition of Price ('678), any urging that it was not known to employ a spill inhibiting funnel containing container with a flowable first edible product in the container, and a second edible, which can be inserted through the funnel and into the first edible, so that the second edible could then be pulled out of the container with some of the first edible associated therewith, and without spilling the first edible, is rendered moot. Similarly, with the addition of Product Alert (3/23/98), any urging that it was not known to associate a lollipop with a holder/container closure which fits onto a container containing a flowable candy, (so that, like Price, an edible is capable of being inserted into a container containing a flowable edible, so that the insertable edible can be pulled out of the container with some of the flowable edible on the withdrawn edible), is also rendered moot. In regard to Product Alert (3/23/98), this product, whether called Punker Pops or Muecas, has been on sale in Mexico at least since 3/23/98. The various exhibits that are part of the rejection are supplied to further show the details of this product, which product has remained unchanged from the date of the article; i.e., a container containing a candy powder and a cover sealing the candy containing, container, wherein the cover has a handle associated with it as well as a hard candy lolly associated with it, so that by

manipulating the cover on and off the container, the consumer can insert the attached lolly so that it can be removably contacted with the candy powder in the container.

On page 5 of the Brief, it is urged that CandyWarehouse should not be considered as prior art because it has a date after appellants' filing date. As noted previously in the prosecution, CandyWarehouse shows a photograph of the product described in Product Alert (3/23/98), which is a flowable candy in a container (and a second non-flowable candy secured to a candy holder/cover). CandyWarehouse therefore is only being relied on to evidence the basic inherency that a flowable product, and a candy flowable product in particular, will be spillable from a flowable, candy containing container. As such, a reference is properly usable even if its date is after the filing date of the application. Of course, even without CandyWarehouse, and due to the Laws of Gravity, a candy product or any flowable product, such as the products of Price, Product Alert, etc. will inherently spill from its container if the container is tilted sufficiently. Should the Board chose to eliminate CandyWarehouse from its consideration, the rejection still is proper based on the obvious inherency of a product spilling fro a container, which is supported by the law of gravity, let alone Hoeting et al and now appellants' own acknowledgement of the law of gravity, found on page 5, lines 7 plus. Appellants' basic urging boils down to the urging that the teachings of the references are "far removed" from that of the invention. This urging is totally unconvincing. The remarks appear to urge that food is not candy, which appears to be an urging of nonanalogous art. The references which teach funnel containing containers are all analogous since they are all directed to the same problem of preventing spilling

of flowable products, both edible and inedible. Therefore, the art taken as a whole fairly teaches one of ordinary skill in the art that it would have been obvious to employ a funnel containing container if one wanted to prevent the spilling of any flowable product, edible or inedible. An invention must be novel and unobvious. Whereas no one reference of record teaches both a conventional flowable candy and a conventional funnel containing, spill proof container together, so that the claims are novel, the preponderance of the evidence clearly and unequivocally teaches it would have been obvious to combine both a conventional flowable candy and a conventional funnel containing, spill proof container for its art recognized and appellants' intended function, with no new or unexpected result being derived therefrom. Thus, an urging that states food and candy are not analogous does not address the art taken as a whole under 35USC103. Note, too, and contrary to what is being urged, the two 35USC103 rejections can be summarized by stating that employing Price as the primary reference, it would have been obvious to modify Price and substitute the conventional products of the art taken as a whole (i.e., powder candy and lolli associated closure) for the conventional products of Price, employing the funnel type container of Price for its spill proof structure in view of the art taken as a whole and employing Product Alert as the primary reference, it would have been obvious to provide the container of Product Alert with a notoriously conventional funnel, both in view of the art, fully evidenced and taken as a whole. It is urged that the solution to the problem of spillage solves a long felt need. However, the solution to the problem is to provide a funnel containing container which has long been used to mitigate or eliminate the problem of spillage of all types of

spillable material, so that appellants problem is long known and their solution is well known and totally expected.

On page 7 of the Brief, it appears that an urging is being made relying on the fact that previously filed applications were found to be patentable. As discussed above, patentability determinations are based on what the art (all of the art), taken as a whole, would have taught one of ordinary skill in the art at the time of applicants invention. It is again noted that all of the recited structure is conventional as well as the compositions, as fully attested to by the art taken as a whole, which art also fairly teaches it would have been obvious to combine the structure and composition as recited, to produce expected results. On page 8 of the Brief, it is urged that Hoeting and Coleman are negative teachings. It is first noted, in this regard, that these references are not primary references and are only being relied on to teach the conventionality of flowable candy and that it is inherently spillable. These references do not have to teach appellants' solution for the rejection to be proper. A plethora of secondary art as well as primary art (in the case of Price) teach the generic problem that flowable products (both edible as well as inedible) can spill from containers and these references teach the specific solution of employing a funnel in the container to prevent such spillage. A review of the urgings on pages 9-13 of the Brief relative to the Double Patenting rejection, finds that essentially the same urgings are made as were made against the 35USC103 rejection, and as such, the rejections stand for the reasons given above.

In summary, appellants have combined a conventional container structure, conventionally employed to address appellants' problem of spillage from the container,

and substitutes one flowable, conventional product for another flowable, conventional product, which would have been known to have had a problem of potentially spilling by anyone before or after Isaac Newton, and the combination of such conventional container and conventional product achieves no new or unexpected result – just the expected result of reducing or eliminating spillage from the container. The two rejections state that either 1) having a preponderance of evidence of funnel containing containers to prevent spillage of flowable products, it would have been unequivocally obvious to use such container structure for any conventional, flowable product such as the recited candy, or 2) having conventional, flowable candy in a conventional container including a closure with a second candy attached thereto, it would have been unequivocally obvious to provide the conventional container with a conventional funnel structure to prevent spillage in view of the preponderance of the evidence which teaches that such a structure for applicants intended use is notoriously conventional. Note that it is perfectly proper for secondary references to teach both the problem and its solution.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Art Unit: 1761

Conferees:

*Steve Weinstein*  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761

*gm*  
GREGORY MILLS  
QUALITY ASSURANCE SPECIALIST

*Milton I. Cano*  
MILTON I. CANO  
SUPERVISORY PATENT EXAMINER

PRODUCT ALERT 3/23/98

11/9/5 (Item 5 from file: 9)  
DIALOG(R) File 9:Business & Industry(R)  
(c) 2005 The Gale Group. All rts. reserv.

01510363 Supplier Number: 24207579  
→ Felix Powder Pop Lollipop & Powder Candy - Cherry-Cola;  
Watermelon

Lucas World is distributing Mexican produced novelty product

Powder Pop Lollipop & Powder Candy, which includes a lollipop and a container with flavored powder)

Product Alert, v 28, n 6, p N/A

March 23, 1998

DOCUMENT TYPE: Journal ISSN: 0740-3801 (United States)

LANGUAGE: English RECORD TYPE: Fulltext

WORD COUNT: 103

TEXT:

Powder Pop Lollipop & Powder Candy is a kids' novelty that is part of the

Felix line of confections produced in Mexico and distributed in the U.S.

by \*\*\*Lucas\*\*\* \*\*\*World\*\*\* Inc., located Laredo, TX. The Cherry-Cola and

Watermelon varieties are each sold in resealable plastic containers that

are tamper evident. The user pulls off the cap by its handle, to which the

\*\*\*lollipop\*\*\* is attached. Directions say to lick it, put it back in the

container and shake it, then lick it again. The watermelon \*\*\*lollipop\*\*\*

comes with lemon flavored powder. For sample retrieval information, please

call: Marketing Intelligence Service, Ltd., (716) 374-6326.

Copyright 1998 Marketing Intelligence Services Ltd.

COMPANY NAMES: LUCAS WORLD INC

INDUSTRY NAMES: Candy; Food; Snack foods

PRODUCT NAMES: Nonchocolate candy (206458)

PRODUCT ALERT 8/9/99, PART 1

11/9/2 (Item 2 from file: 9)  
DIALOG(R)File 9:Business & Industry(R)  
(c) 2005 The Gale Group. All rts. reserv.

01918587 Supplier Number: 25391794  
Felix Urkys Xtreme Candy - Super Sour; Punker Pop - Sour  
MANUFACTURER: \*\*\*Lucas\*\*\* \*\*\*World\*\*\* Inc.

CATEGORY: 021 - Candies,

Non-Chocolate

(Lucas World Inc introduces Felix Candies such as Urkys Xtreme Candy)

Product Alert, v 29, n 15, p N/A

August 09, 1999

DOCUMENT TYPE: Journal ISSN: 0740-3801 (United States)

LANGUAGE: English RECORD TYPE: Fulltext

WORD COUNT: 90

TEXT:

Felix Candies are distributed in the U.S. by \*\*\*Lucas\*\*\*  
\*\*\*World\*\*\* Inc.

of Laredo, TX. Urkys Xtreme Candy comes in a 1.05 oz.

plastic flip-top  
container tagged, "Super Sour." Another product, the Sour  
Punker \*\*\*Pop\*\*\*

is identified as a delicious \*\*\*lollipop\*\*\* with flavor  
powder. It comes in

an 0.88 oz handled plastic container Both candies are  
made in Mexico and

contain ingredients such as sugar, glucose, corn starch and  
citric, lactic

and malic acids. For sample retrieval information, please  
call: Marketing

Intelligence Service, Ltd., (716) 374-6326. Publisher's  
Classification

SIC2065300 CLASS33 RC1USA

Copyright 1999 Marketing Intelligence Services  
Ltd.

COMPANY NAMES: LUCAS WORLD INC

INDUSTRY NAMES: Candy; Food; Snack foods

PRODUCT NAMES: Nonchocolate candy (206458)

PRODUCT ALERT 8/9/99, PART 2

11/9/3 (Item 3 from file: 9)  
DIALOG(R) File 9:Business & Industry(R)  
(c) 2005 The Gale Group. All rts. reserv.

01918585 Supplier Number: 25391792  
Muecas Acidito Lollipop - Chamoy MANUFACTURER: Lucas  
World CATEGORY: 021 - Candies, Non-Chocolate  
(Lucas World) Inc introduces Muecas Acidito Chamoy  
Lollipop with great chili powder)

Product Alert, v 29, n 15, p N/A

August 09, 1999

DOCUMENT TYPE: Journal ISSN: 0740-3801 (United States)  
LANGUAGE: English RECORD TYPE: Fulltext  
WORD COUNT: 75

TEXT:

A product of Mexico, the Muecas Acidito Chamoy Lollipop is distributed in the U.S. by \*\*\*Lucas\*\*\* \*\*\*World\*\*\* Inc. of Laredo, TX. It comes in a 1 oz. handled plastic container. Identified as a delicious chamoy \*\*\*lollipop\*\*\*

with great chili powder, a partial listing of ingredients includes sugar, glucose, lactic acid, iodized salt, sugar, citric acid and chili powder.

For sample retrieval information, please call: Marketing Intelligence Service, Ltd., (716) 374-6326. Publisher's Classification SIC2065300

CLASS33 RC1USA

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COMPANY NAMES: LUCAS WORLD INC

INDUSTRY NAMES: Candy; Food; Snack foods

PRODUCT NAMES: Nonchocolate candy (206458)

CONCEPT TERMS: All product and service information; Product introduction

GEOGRAPHIC NAMES: North America (NOAX); United States (USA)

## EXHIBIT F

11/15/2005 09:18 86251099

EFFEM

PAGE 01



10/29/1999

INVOICE DATE	TERMS	INVOICE
MONTH: 10	29	1999
REFERENCE		CLIENT NO.
1452		52

SOLD TO: SALES  
12139 GOLWICK DRIVE  
SAN ANTONIO TX 78216  
ER. UU  
NIP: C

SHIPPED TO:

QUANTITY	DESCRIPTION	PRICE	AMOUNT
24CAJ	UV CAJA CRAZY HAIR 12/24 USA	0.00	0.00
20CAJ	UV CAJA PUNKERPOP 12/24 USA	78.37	1,567.40
1CAJ	UV CAJA PUNKERPOP 12/24 USA	0.00	0.00

LAREDO, TEXAS  
WAREHOUSE AND MAILING ADDRESS:  
GILBERT INTERNATIONAL 8219 GILBERT RD.  
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P.O. Box 1403  
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EXHIBIT G



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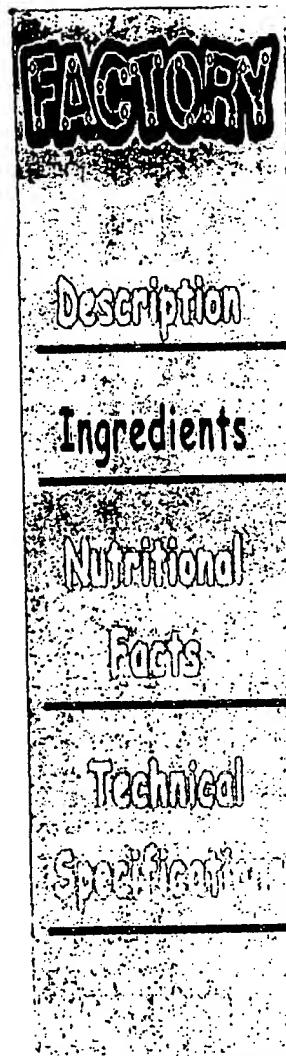
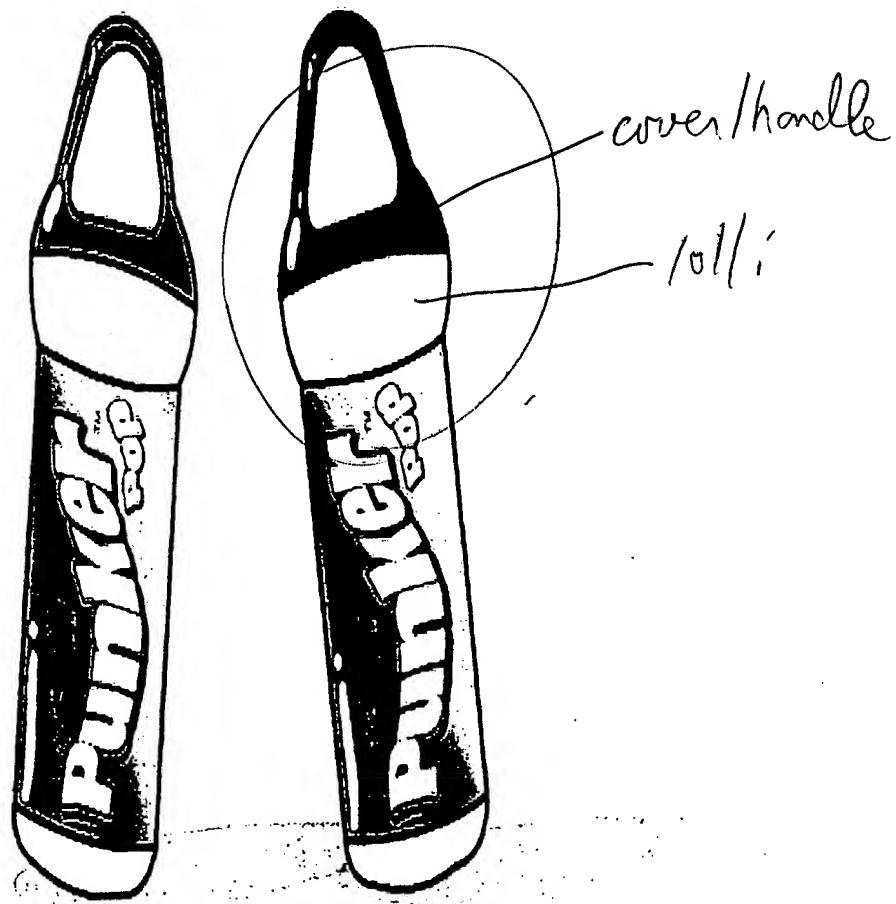
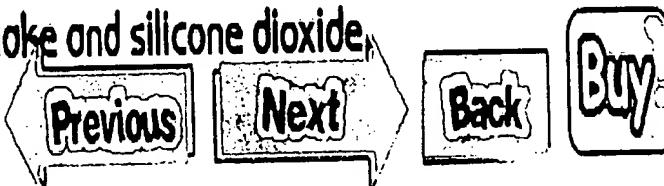


EXHIBIT D



Lollipop: Sugar, glucose, lactic acid, art. watermelon or cherry flavor and art. color Red '40

Acidulated Powder: sugar, dextrose, citric acid, art. lemon or cola flavor, art. colors Yellow '5 lake, Blue '1, Red '3 lake and silicone dioxide



**Felix**

EXHIBIT A

COLIX POWDER POP



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cover/handle

Flavor  
**WHO CARES**

**SOUR**



**FELINE**



cover

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[Tama-Roca: 40CT Tub](#)

[Pica Fresa: 100CT Bag](#)

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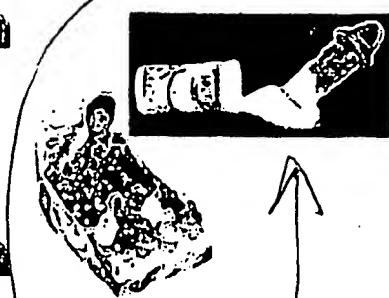
[Habanero Lollipops: 24CT Box](#)

[Horchata Lollipops: 24CT Box](#)

[Tequila Worm Lollipops: 36CT Box](#)

[Chili Lix Cinnamon Lollipops: 36CT Box](#)

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MARCH 27 2003

3/27/03

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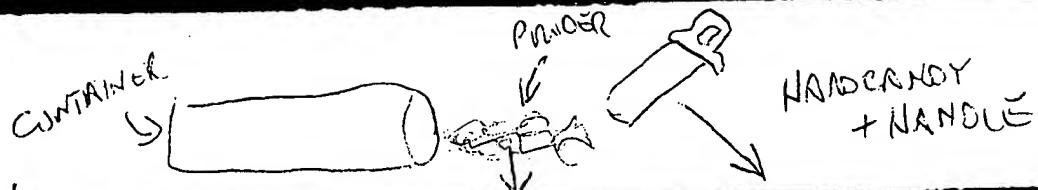
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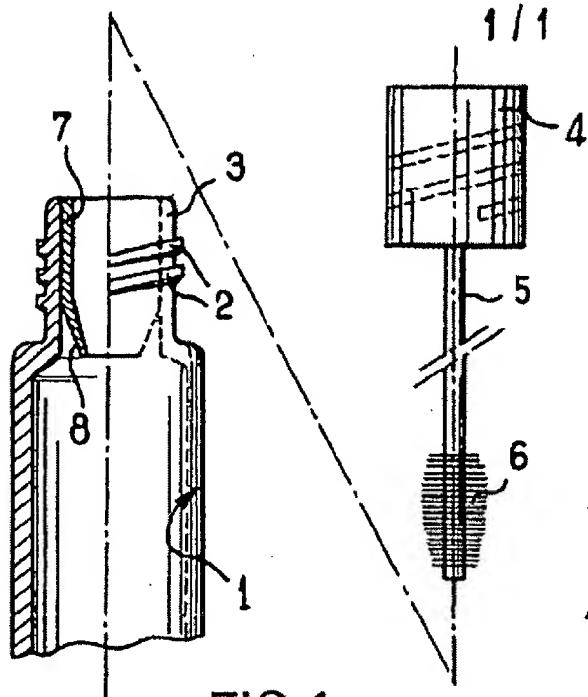


FIG. 1

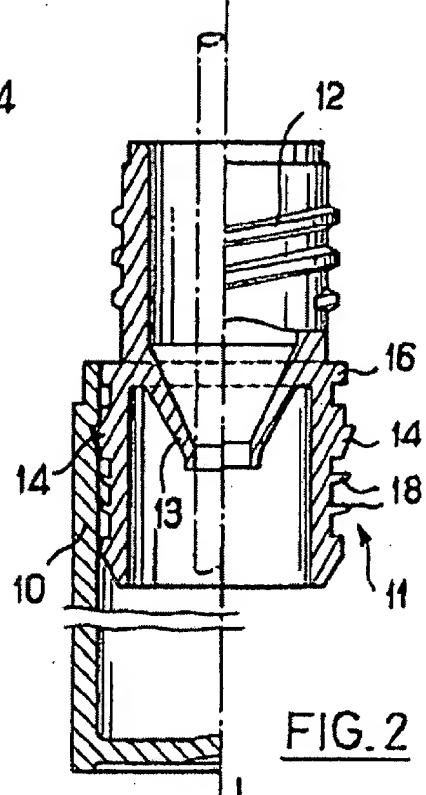


FIG. 2

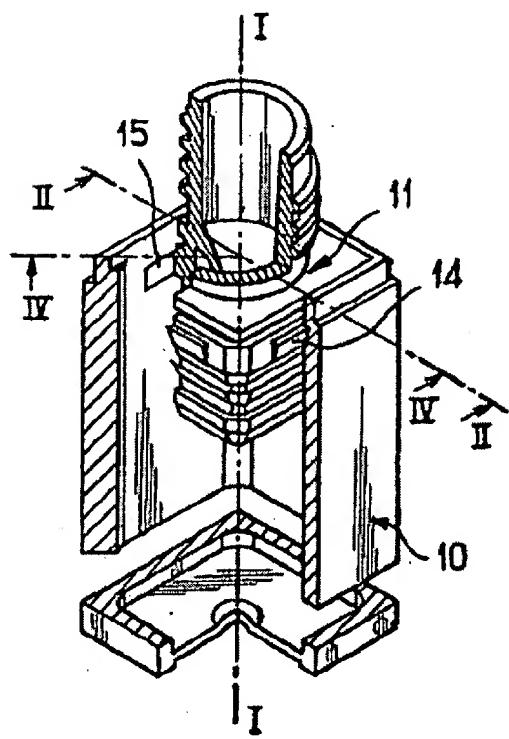


FIG. 3

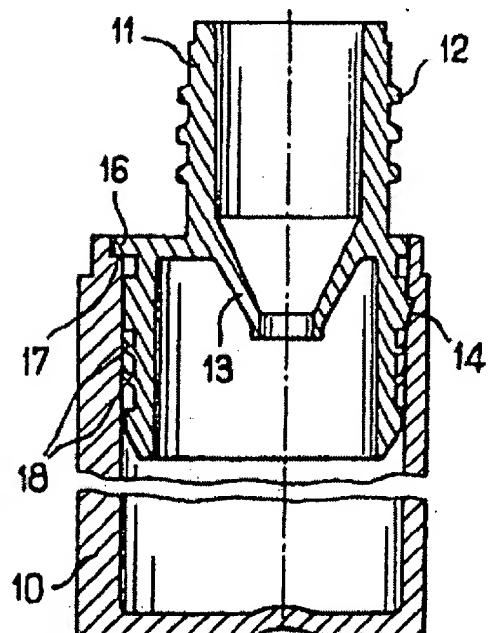


FIG. 4

PTO 07-6693

CC = FR  
19920918  
A1  
2673917

BODY OF RECEPTACLE FORMING BOTTLE FOR MASCARA  
[Corps de recipient formant flacon pour mascara]

Pierre Corteggiani et al.

UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. SEPTEMBER 2007  
TRANSLATED BY: THE MCELROY TRANSLATION COMPANY

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Bulletin 92/38

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APPLICATION DATE (22): 19910314

INTERNATIONAL CLASSIFICATION<sup>5</sup> (51): B 65 D 51/32  
47/42

PRIORITY COUNTRY (30): [NONE]

PRIORITY NUMBER (30): [NONE]

PRIORITY DATE (30): [NONE]

INVENTORS (72): Pierre Corteggiani et al.

APPLICANT (71): AURIPLAST

TITLE (54): BODY OF RECEPTACLE FORMING  
BOTTLE FOR MASCARA

FOREIGN TITLE [54A]: [Corps de récipient formant flacon pour  
mascara]

The object of the invention is to improve a receptacle body forming a bottle for mascara.

The bodies of receptacles forming a bottle for mascara are currently constituted in several ways.

In some cases the bottle is manufactured of glass with a threaded neck onto which the stopper carrying the applicator is screwed. However, glass is not well adapted to this type of product and has been increasingly abandoned in favor of products of plastic material.

When plastic materials are used, the bottles obtained by the manufacturing technique of glass bottles are obtained by the technique of blowing, but this technique involves limitations with regard to the shapes that can be obtained, not permitting sharp angles, and also with regard to the choice of materials and the esthetics of the product. If one desires to obtain a suitable esthetic, it is generally necessary to add an external covering on the bottle. In addition, it is necessary to add an appropriate piece to the neck of the bottle.

The object of the invention is to improve the manufacture of such pieces by simplifying it and simultaneously permitting the obtaining of improved and more esthetic products.

For this, a receptacle body forming the bottle for mascara according to the invention is characterized in that it has two parts, namely:

- a low part forming the mascara container, and
- a high part forming the neck of the bottle provided with means for fastening the stopper, such as a thread, and having a constricted cone section for drying the brush for mascara application,
- the said two parts, container/neck, being joined by locking by forced engagement and clicking and latching the neck in the container.

This new conception of the bottle makes it possible to produce the two parts of the bottle by injection molding, which facilitates a very broad choice of materials and shapes and eliminates the need for resorting to a covering for improving the esthetics of the product.

According to another characteristic of the invention, the neck has flexible sealing segments molded of material with it in the low part on the outer face of its wall, being brought against the high part of the internal face of the wall facing the container.

Other objects and advantages of the invention will appear more clearly with the aid of the following description with reference to the attached drawings in which:

- Figure 1 schematically shows a mascara bottle conceived according to the prior art,
- Figures 2, 3 and 4 show in a nonlimiting manner a mode of producing a bottle conceived according to the invention, in which:
  - Figure 2 shows, in the plane II-II of Figure 3, the bottle viewed in the assembled cutaway position in the left-hand view, and the elevation cutaway part without the body, in the right-hand part,
  - Figure 3 is a perspective view with toothings of the bottle,
  - Figure 4 is a cutaway view along the two half-planes referenced IV-IV of Figure 3 and passing through the line of axis I-I of this same figure.

Referring first of all to Figure 1, the illustration is of a receptacle body forming a bottle for mascara generally referenced 1 with the thread 2 on the neck 3 at its upper part for receiving the threaded stopper 4, which carries the rod 5 provided with the brush 6 for mascara application underneath it.

To permit the drying of the brush 6 when it is withdrawn from the bottle, an added piece 7 ending in a reducer cone 8 is provided. This piece 7 is generally of a relatively flexible plastic material and is kept simply engaged by force in the neck of the bottle. The container 1 can be of glass or plastic material of suitable quality obtained by blowing, with the disadvantages indicated above.

According to the invention and by referring now to Figures 2-4, it is evident that the bottle for mascara is now constituted of two parts, respectively a low part forming the container 10 of mascara and a high part forming the neck 11. The neck 11 is provided with means of fastening the stopper (not shown)

such as a thread 12 and it also has a constricted cone section 13 directed to the bottom for drying or wiping the brush for mascara application.

The neck 11 is mounted locked tightly in the container 10 by simple engagement and forced interlocking in the direction of the arrow F (Figure 4) by applying the neck 11 in the container 10.

Locking in position is obtained by teeth 14 provided in the example illustrated on the outer face of the wall of the neck 11 engaged in the high part of the receptacle 10, the said teeth 14 being clamped by clicking and latching in the grooves 15 formed complementarily on the internal face facing the high part of the container 10; blocking in position is obtained by stops 16 provided on the neck 11 just under the part that projects above the container 10, the said stops engage on a cooperating stop such as the step 17 in the upper angles of the container 10.

On the other hand, a perfect tightness is obtained by providing sealing segments 18 molded of material with the neck 11 on the outer face of its wall toward its low part, these sealing segments coming to rest against the high part of the internal face of the wall facing the container, as is particularly evident in Figures 2 and 4.

It is clearly apparent from the preceding description that the receptacle body forming the bottle for mascara can be simply manufactured in two injected pieces, the assembling of which is done by simple clicking and latching one piece in the other.

### Claims

1. Receptacle body forming a bottle for mascara, characterized in that it is in two parts, namely:

- a low part forming the container (10) of mascara, and

- a high part forming the neck (11) of the bottle provided with means for fastening the stopper, such as a thread (12), and having a constricted cone section (13) for wiping the brush for applying the mascara,

- the said two parts, container (10)/neck (11) being joined by locking by forced engagement and clicking and latching the neck in the container.

2. Bottle for mascara according to Claim 1, characterized in that the said parts (10, 11) are manufactured by injection molding.

3. Bottle for mascara according to Claim 1 or Claim 2, characterized in that the neck (11) has flexible sealing segments (18) in the low part on the outer face of its wall, molded of material with it, being carried against the high part of the internal face of the wall facing the container.

4. Bottle for mascara according to one of the preceding claims, characterized in that the neck (11) and the container (10) have means of cooperating stops (15, 17) for locking them in position when the neck (11) is engaged in place in the container (10).

5. Bottle for mascara according to one of the preceding claims, characterized in that the neck (11) and the container (10) has cooperating means for their locking in position, such as teeth (14) formed on one of the parts engaging by clicking and latching in grooves (15) formed in the other part.

FRENCH REPUBLIC  
National Institute  
of Industrial Property

**SEARCH REPORT**  
established on the basis of the most recent  
claims filed before the start of the search

Application Number  
2673917  
National registration number  
FR 9103104  
FA 454500

<b>DOCUMENTS CONSIDERED TO BE RELEVANT</b>			
Category	Citation of document with indication where appropriate, of relevant passages	Claims concerned in the examined document	
A	FR-A-2283066 (GEBRUDER SEIDEL KG) * the entire document *	1-4	
A	WO-A-8802608 (L'OREAL) * abstract; Figure 2 *	1, 2	
			<b>TECHNICAL FIELDS SEARCHED (Int. Cl.<sup>5</sup>)</b>
			B65D A45D
Date of completion of the search		Examiner	
November 5, 1991		Smith, C	
<b>CATEGORY OF CITED DOCUMENTS</b>			
X:	Particularly relevant if taken alone.	T:	Theory or principle underlying the invention.
Y:	Particularly relevant if combined with another document of the same category.	E:	Earlier patent document, but published on, or after the filing date.
A:	Technological background.	D:	Document cited in the application.
O:	Non-written disclosure.	L:	Document cited for other reasons.
P:	Intermediate document.	.....	
		&: Member of the same patent family, corresponding document.	

Pilot Ink SP-11-227388  
8/1999

- 22 Liquid spill-prevention barrier
- 23 Ring-shaped projection
- 31 Large-diameter hole
- 32 Small-diameter hole
- 51 Marking

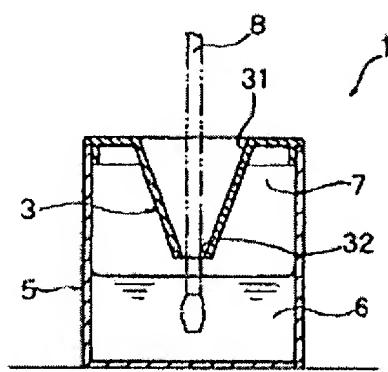


Figure 1

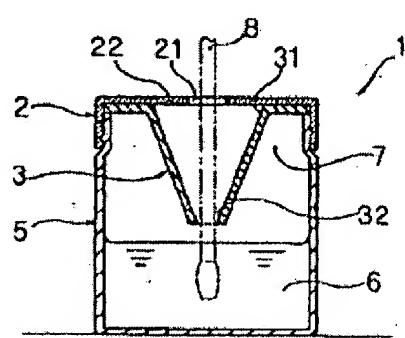


Figure 2

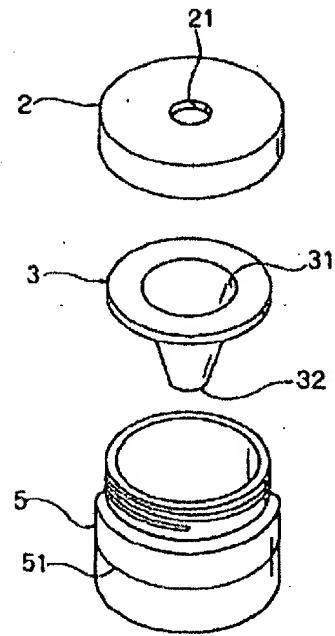


Figure 3

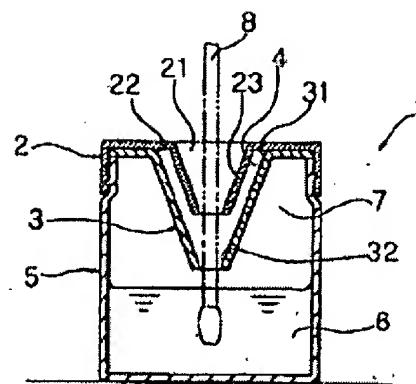


Figure 4

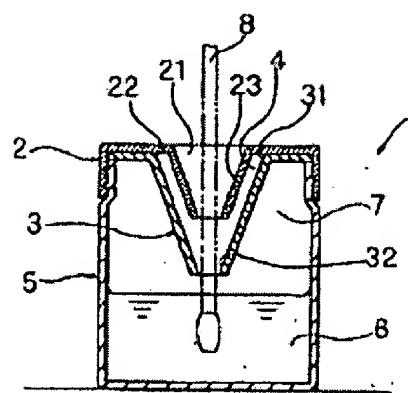


Figure 5

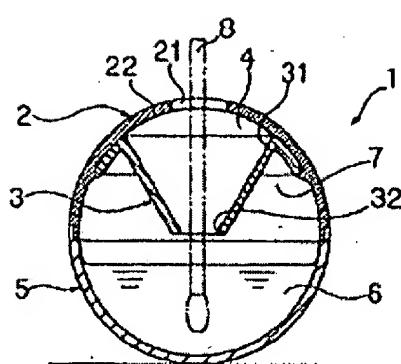


Figure 6

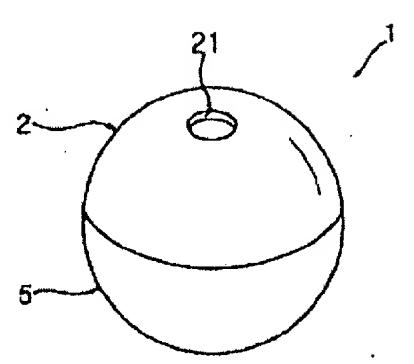


Figure 7

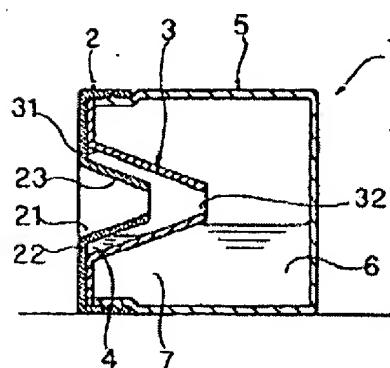


Figure 8

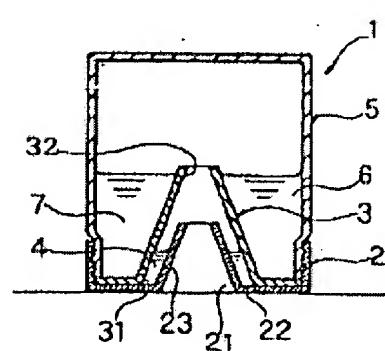


Figure 9

PTO 07-6704

CC = JP  
19990824  
Kokai  
11227388

LIQUID SPILL-PREVENTION CONTAINER  
[Tsuyu kobore boshi yoki]

Tsutomu Tomatsu

UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. SEPTEMBER 2007  
TRANSLATED BY: THE MCELROY TRANSLATION COMPANY

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PUBLICATION DATE (43): 19990824

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APPLICATION DATE (22): 19980216

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A 47 G 19/22  
B 65 D 25/02

INVENTORS (72): Tsutomu Tomatsu

APPLICANT (71): 000111890  
Pilot Ink Co., Ltd.

TITLE (54): LIQUID SPILL-PREVENTION CONTAINER

FOREIGN TITLE [54A]: Tsuyu kobore boshi yoki

## Claims

1. A liquid spill-prevention container (1) characterized in that a large-diameter hole (31) side of a funnel-shaped member (3) is formed in the open part of a container (5) and the small-diameter hole (32) side is positioned toward the inside of the container, and a liquid storage reservoir part (7) is formed between the outer peripheral surface of aforementioned funnel-shaped member (3) and the inner wall of container (5).

2. Liquid spill-prevention container (1) described in Claim 1 characterized in that, on the larger-diameter (31) side of funnel-shaped member (3), a lid member (2) furnished with a center hole (21) smaller in diameter than said large-diameter hole (31) is mounted, and the inner surface of lid member (2) around the edge of aforementioned center hole (21) forms a spill-proof barrier (22).

3. Liquid spill-prevention container (1) described in Claim 2 wherein an inward-facing ring-shaped projection (23) is extended around the edge of center hole (21).

4. Liquid spill-prevention container (1) described in Claim 3 wherein inward-facing ring-shaped projection (23) is a funnel shape, and narrows in diameter toward the forward end.

5. Liquid spill-prevention container (1) described in Claim 1 wherein the quantity of liquid in liquid reservoir part (7) when inverted or on the side is at least 10% of the total volume of container (5).

## Detailed explanation of the invention

[0001]

### Technical field of the invention

The present invention relates to a liquid spill-prevention container. Specifically, it relates to a simple liquid spill-prevention container constituted so that even when the container is inverted accidentally when in use, a solution inside the container will not spill out. More specifically, it relates to a

liquid spill-prevention container constituted such that the solution in the container is water, a coloring solution, beverage or the like, this type of liquid is stored in the container, a pointed member for writing or painting, or a liquid suction member, such as a straw, is inserted through the open part, and the aforementioned liquid can be removed.

[0002]

Prior art

Previously, a proposal relating to a container from which ink will not leak even when it falls over was disclosed in Japanese Utility Model No. Sho 37[1962]-21933. With the proposal above, folds like an accordion that can telescope are furnished for the container body, ink inside the container is introduced into an ink extraction funnel fit inside the container by pressing the correct place on the top surface directly above, [the ink] rises, the appropriate quantity of ink is extracted and held by increasing or decreasing pressure, the tip of a pen is dipped into it, ink is adhered and used for writing, and the ink is lowered to its original state by action of the vacuum in the container when pressure is released.

[0003]

Problems to be solved by the invention

With the proposal above, although ink leakage when the container is inverted can be eliminated, the suction operation above must be repeated each time it is used, the complexity of the operation cannot be avoided, and it is insufficiently useful and lacks versatility. The present invention proposes to provide a liquid spill-prevention container that is convenient and versatile and with which a pointed member for writing or painting, or a liquid suction member, such as a straw, is inserted through the open part of the container to suck out liquid in the container without requiring a complex operation as described above.

[0004]

Means to solve the problems

This invented liquid spill-prevention container will be explained with figures (Figures 1-9). The essential objective of the present invention is a liquid spill-prevention container (1) wherein a large-diameter hole (31) side of a funnel-shaped member (3) is furnished in the open part of a container (5), and a liquid reservoir part (7) is formed between the outer peripheral surface of aforementioned funnel-shaped member (3) and the inner wall of container (5). Additional essential points are the fact that on the large-diameter hole (31) side of funnel-shaped member (3) a center hole (21) with a smaller diameter than the diameter of aforementioned large-diameter hole (31) is furnished, and the inner surface of a lid member (2) around the edge of aforementioned center hole (21) forms a liquid spill-prevention barrier (22), the fact that an inward-facing ring-shaped projection (23) is extended on the edge around center hole (21), the fact that inward-facing ring-shaped projection (23) is a funnel shape and the diameter is narrowed toward the forward end, and in addition the fact that the liquid quantity in liquid reservoir part (7) when inverted or on its side is at least 10% of the total volume of container (5), etc. By satisfying the conditions above, even when the container is accidentally inverted during actual use, the problem of liquid (6) in container (5) overflowing outside and dirtying the area can be eliminated.

[0005]

In the constitution above, by attaching a funnel-shaped member (3), a liquid reservoir part (7) can be formed between the outer peripheral surface of the funnel shape and the peripheral surface of the container from the outer peripheral surface of large-diameter hole (31) at the base end of said member to the position of the outer peripheral surface of small-diameter hole (32). Here, positioning vertically of

aforementioned small-diameter hole (32) is determined according to the size of the angle of inclination of funnel-shaped member (3). That is, if the aforementioned angle of inclination is set bigger, small-diameter hole (32) can be positioned nearer the top, and conversely if the angle of inclination is set to be smaller, small-diameter hole (32) can be positioned nearer the bottom. The position of aforementioned small-diameter hole (32) controls the quantity of liquid to effectively accomplish a liquid spill-prevention function. That is, when the liquid level is positioned toward the top past the position of small-diameter hole (32), liquid spillage occurs when inverted. To make the effective liquid storage capacity larger, positioning small-diameter hole (32) toward the top is effective, which can be set appropriately according to the objective, application, etc.

[0006]

Aforementioned liquid spill-prevention barrier (22) is a ring-shaped wall delineated by the edge around center hole (21) on the inner surface of lid member (2) and the inner circumference of large-diameter hole (31) of funnel-shaped member (3), and it serves the function of temporarily damming when liquid (6) is passed over the inner wall of funnel-shaped member (3) to flow toward the outside, or a situation occurs where it sprays outward due to impact or the like. Here, in a system wherein a ring-shaped projection (23) is furnished inward from the edge around aforementioned center hole (21), an expanded liquid reservoir space (4) can be ensured, and in addition, the aforementioned damming function can be increased. With a system wherein ring-shaped projection (23) is extended in a funnel shape, the liquid reservoir function is further increased, and it can effectively prevent liquid leakage.

[0007]

The constituent members of the present invention are normally formed with any type of plastic material and can be set to an appropriate shape and size according to the objective and the application. Container (5) could also be made of waterproof paper, glass or metal. A marking (51), such as a scale or limit line for liquid storage quantity, can also be furnished for container (5) as appropriate, and convenient use is achieved.

[0008]

#### Embodiment of the invention

This invented container can be configured to a shape and size according to the objective, e.g., for an infant such that the beverage is apportioned in small amounts for drinking with a straw, a beverage container for airplane use, or a painting container filled with a coloring solution, but described below are liquid spill-prevention containers effective as a coloring material solution storage container as a child's toy. However, as a container for beverages or the like, it can be put into use by making the shape and dimensions larger.

[0009]

#### Application examples

##### Application Example 1 (refer to Figure 1)

A plastic funnel-shaped member (3) (having a large-diameter hole (31) with internal diameter 30 mm, and a small-diameter hole (32) with internal diameter 6 mm) with a rim extending around the edge of large-diameter hole (31) was attached to the open part of a plastic container (5) (60 mm external diameter, 60 mm high, 2 mm thick), and a liquid spill-prevention container (1) having a liquid reservoir

part (7) between the outer peripheral surface of aforementioned funnel-shaped member (3) and container (5) was constructed.

[0010]

Application Example 2 (refer to Figures 2 and 3)

A lid member (2 mm thick, and having center hole (21) with internal diameter 10 mm) and a funnel-shaped member (3) (same as Application Example 1) to be mounted in plastic container (5) in Application Example 1 were each prepared by molding plastic and assembled to construct a liquid spill-prevention container (1) having a liquid spill-prevention barrier (22) and a liquid reservoir part (7).

[0011]

Application Example 3 (Figure 4)

Except for furnishing a ring-shaped projection (23) 4 mm deep around the edge of center hole (21), [the container] is composed of the same constituent elements as in Application Example 2, and a liquid reservoir space (4) is formed in a region delineated by the outer peripheral surface of ring-shaped projection (23) and large-diameter hole (31) of funnel-shaped member (3).

[0012]

Application Example 4 (Figure 5)

A lid member (2) having a center hole (21) with internal diameter 20 mm, with the diameter narrowing in a funnel shape toward the forward end, and having a forward end hole with internal diameter 6 mm, and a funnel-shaped member (3) (Application Example 2) were each prepared by molding plastic

and assembled to constitute a liquid spill-prevention container (1) provided with a liquid reservoir space (4).

[0013]

Application Example 5 (refer to Figures 6 and 7)

A center hole (21) with internal diameter 15 mm was furnished in the center of a half sphere (70 mm external diameter, 2 mm thick) to form a lid member (2), a funnel-shaped member (3) (having a large-diameter hole (31) with internal diameter 40 mm, and a small-diameter hole (32) with internal diameter 10 mm) was bonded to the inside to constitute a lid body, which was bonded with a half sphere, and a spherical liquid spill-prevention container (1) was constructed. The container in each of the application examples above can be filled with a coloring material solution for actual use. Figure 8 and Figure 9 are explanatory diagrams of the container in Application Example 4 above when on its side and inverted while in use, and illustrate liquid (6) being prevented from overflowing to the outside by the function of liquid reservoir part (7) and liquid reservoir space (4).

[0014]

This invented liquid spill-prevention container can be used by the liquid in the container being sucked up with a pointed member for writing or painting, or through a straw or the like, without requiring a complex operation. Not limited to a coloring material solution such as ink, it can be used with a liquid such as water or other beverage stored temporarily in the container, and is effective as a child's toy, or as a temporary storage container for beverages and the like.

### Brief description of the figures

Figure 1 is a longitudinal cross section explanatory diagram of an application example of this invented liquid spill-prevention container.

Figure 2 is a longitudinal cross section explanatory diagram of another application example.

Figure 3 is an exploded oblique view of the container in Figure 2.

Figure 4 is a longitudinal cross section explanatory diagram of another application example.

Figure 5 is a longitudinal cross section explanatory diagram of another application example.

Figure 6 is a longitudinal cross section explanatory diagram of another application example.

Figure 7 is an oblique view of the container in Figure 6.

Figure 8 is a longitudinally cut explanatory diagram showing a circumstance in which the container in Figure 5 is on its side.

Figure 9 is a longitudinally cut explanatory diagram showing the container in Figure 5 inverted.

### Explanation of symbols

- 1 Liquid spill-prevention container
- 2 Lid member
- 3 Funnel-shaped member
- 4 Liquid reservoir space
- 5 Container
- 6 Liquid
- 7 Liquid reservoir part
- 8 Painting tool
- 21 Center hole